

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

KABA BEY,

Plaintiff,

v.

FRANCISCO GARCIA,

Defendant.

No. 1:20-cv-00795-NONE-EPG

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS

(DOC NOS. 6, 7 & 13)

Plaintiff Kaba Bey, proceeding *pro se* and *in forma pauperis*, filed the complaint initiating this action on June 8, 2020. (Doc. No. 1.) Plaintiff's motion for default judgment (Doc No. 6) and Defendant Francisco Garcia's motion to quash and motion to dismiss (Doc. No. 7) were referred to the assigned magistrate judge on August 25, 2020. (Doc. No. 8).

On October 1, 2020, the assigned magistrate judge issued findings and recommendations, recommending that "Defendant's motion to quash and to dismiss ([Doc.] No. 7) be GRANTED IN PART, to the extent Defendant seeks quash service of process, and DENIED IN PART WITHOUT PREJUDICE, to the extent Defendant seeks to dismiss for failure to state a claim;" "Plaintiff's motion for default ([Doc.] No. 6) be DENIED;" and "Plaintiff be ordered to serve his complaint within thirty (30) days following the District Judge's entry of an order." (Doc No. 13 at 5-6).

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1 Plaintiff was provided an opportunity to file objections to the findings and
2 recommendations. Plaintiff filed objections on October 14, 2020. (Doc. No. 14). Plaintiff's
3 objections do not address the magistrate judge's reasoning.

4 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this
5 Court has conducted a *de novo* review of this case. Having carefully reviewed the entire file, the
6 court finds the findings and recommendations to be supported by the record and proper analysis.

7 Accordingly, THE COURT HEREBY ORDERS that:

- 8 1. The findings and recommendations issued by Magistrate Judge Erica P. Grosjean
9 on October 1, 2020 (Doc. No. 13), are ADOPTED IN FULL;
- 10 2. Defendant's motion to quash and to dismiss (Doc. No. 7) is GRANTED IN PART,
11 to the extent defendant seeks quash service of process, and DENIED IN PART
12 WITHOUT PREJUDICE, to the extent defendant seeks to dismiss for failure to
13 state a claim¹;
- 14 3. Plaintiff's motion for default (Doc No. 6) is DENIED; and
- 15 4. Plaintiff is ordered to serve his complaint within thirty (30) days following the date
16 of entry of this order.

17 IT IS SO ORDERED.

18 Dated: October 20, 2020


UNITED STATES DISTRICT JUDGE

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¹ Plaintiff appears in his objections to be challenging the jurisdiction of this court to act. If plaintiff, who initiated this lawsuit, does not wish to invoke this court's jurisdiction, he is free to voluntarily dismiss this case at any time before an answer is filed. See Fed. R. Civ. P. 41(a)(1)(A)(i).